

Appl. No. 10/782,228
 Atty. Docket No.: 2002B107D
 Amdt. dated October 13, 2006
 Response to Office Action of July 14, 2006

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REMARKS/ARGUMENTS

This reply is submitted in response to the Office Action dated July 14, 2006.

Claims 6-15 and 17-170 are pending.

Claims 6-15 and 17-170 are rejected.

Claims 6, 7, 17-18, 30, 41, 77, 113, and 125 are amended.

Claims 1-5, 16, 47, and 149-150 are canceled.

Applicants thank Examiner Mulcahy for taking the time to interview this case.

Double Patenting

Regarding the double patenting rejections, Applicants respectfully submit that, due to the still-changeable nature of the claims, these rejections should be held in abeyance, e.g., until such point as the pending claims are allowable but for such double patenting rejections. At that juncture, Applicants will, if necessary, submit the appropriate terminal disclaimer(s) to obviate any then-pending double patenting rejections. Applicants respectfully submit that these rejections are not ripe for resolution until there are otherwise allowable claims in the instant case and allowed or issued claims in the cases to which terminal disclaimers are sought. Indeed, Applicants respectfully note that the M.P.E.P. instructs the Examiner to withdraw a provisional double patenting rejection in the earlier filed of two pending applications and to allow that earlier filed application to issue as a patent without a terminal disclaimer. See M.P.E.P 804(I)(B)(1).

Rejections under 35 USC § 102(b or e) and 103(a)

Medsker

Claims 6-15 and 17-153 are rejected under 35 USC § 102(b or e) and 103(a) as being anticipated by U.S. 6,084,031 (Medsker).

The compositions in Medsker are different from Applicants' claimed invention. First, most claims, as amended, exclude elastomers and hence butyl rubber and the XP-50 copolymer are excluded from the claimed compositions. Medsker discloses blends of predominantly an elastomer (XP-50 or butyl rubber) modified with various polypropylene copolymers and oil extended with polybutene. These blends are combined with curatives and made into dynamically vulcanized alloys where the plastic provides a thermoplastic matrix and the elastomer forms a

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dispersed phase of crosslinked rubber particles.

Furthermore the Parapol oil used in Medsker is there to oil extend the elastomer and make it easier to process. This means the oil migrates to the elastomer in the blend and is located with the elastomer. (It is generally believed in the art that the oil is attracted to the amorphous phase of the elastomer and repelled by the crystalline phase of the polypropylene). Thus, the oil in Medsker provides no "plasticizing" effect because it is not located in the plastic matrix. Therefore the Tg effect in claim 36, 37, and 38 does not occur in Medsker's blends. In contrast, in Applicants' blends, the oil is present in the polyolefin and thus has a plasticizing effect. Nowhere within the four corners of Medsker is Applicants' specific plasticized composition disclosed or suggested.

Medsker discloses dynamically vulcanized alloys of a polypropylene matrix with crosslinked particles of elastomer dispersed throughout. This blend is significantly different from Applicants' blend. First, Applicants' blend has no elastomer. Second, the Parapol oil present in Medsker is present as an oil extending processing aid for the rubber and is located in the rubber, while Applicants' blend has no rubber for the plasticizer to segregate into. Thus, it is clear these blends are very different and will have very different properties. Consequently, the blends in Medsker do not anticipate the claimed invention. Further, nothing within the four corners of Medsker discloses or suggests the idea that combining a specific non-functionalized plasticizer compound having the claimed properties with a polyolefin (e.g., polypropylene) will provide a plasticizing effect to the polypropylene which is generally thermoplastic in nature. An oil extended rubber is simply not the same thing as a plasticized plastic. Applicants respectfully submit that the claimed invention is not obvious from Medsker and requests that the rejection be withdrawn.

Dutt, Gibson, and Rancich

Claims 6-15 and 17-153 are rejected under 35 USC § 102(b or e) and 103(a) as being anticipated by U.S. 4,996,094 (Dutt), U.S. 6,730,739 (Gibson), or U.S. 6,086,996 (Rancich). The Office suggests that Medsker, Dutt, Gibson, and Rancich make the incorporation of the claimed NFP's obvious over the Parapol additives that are disclosed in Medsker, Dutt, Gibson, and Rancich.

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Parapol is a polybutene that does not fall within the scope of Applicants' claims.

Parapol 1300 has a specific gravity of 0.888 and Parapol 2500 has a specific gravity of 0.911, both of which fall outside of the claimed ranges of Claims 6, 7, 77-148, and 151-153. Further, Parapol is not an oligomer of C₅ or C₆ to C₁₄ olefins as required by claims 7, 8, and 9. Parapol is also not a mineral oil as required by Claim 10. Parapol is not a mixture of branched and normal paraffins as required by Claim 11. Finally, Parapol does not have less than 10 % sidechains having 4 or more carbons, and at least 1 or 2 carbon branches present at 15 weight % or more as required by Claim 15. Because Parapol does not have claim elements of Claims 6, 7, 10, 11, or 15, Parapol must necessarily not have at least one claim element of Claims 18-76.

In the instant invention, the claimed properties allow for the NFP to have an affect on polymer properties (especially color) and a level of retention that the other hydrocarbon fluids do not. For example, typical polybutenes and polyisobutylene are not preferred fluids since they have exceptionally high emission rates. Thus, Applicants respectfully request that the rejection under 35 USC § 102(b or e) and 103(a) be withdrawn.

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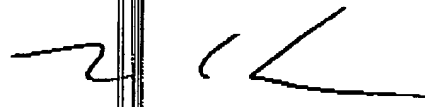
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CONCLUSION

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Reconsideration and allowance is respectfully requested. Applicants invite the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been presented to the Examiner's satisfaction.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account number 05-1712. Moreover, if the deposit account contains insufficient funds, the Commissioner is hereby invited to contact Applicants' undersigned representative to arrange payment.

Respectfully submitted,



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